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COMMISSION ON HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 62nd MEETING
(FIRST PART)*

Held at the Palais des Nations, Geneva,
on Wednesday, 8 March 1995, at 6.40 p.m.

Chairman: Mr. BIN HITAM (Malaysia)

CONTENTS

HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS (continued)

THE ROLE OF YOUTH IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS, INCLUDING THE QUESTION OF CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (continued)

DRAFTING OF A DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (continued)

* The summary record of the second part of the meeting appears as document E/CN.4/1995/SR.62/Add.1.

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CONTENTS (continued)

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS (continued)

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(b) STUDY OF SITUATIONS WHICH APPEAR TO REVEAL A CONSISTENT PATTERN OF GROSS VIOLATIONS OF HUMAN RIGHTS AS PROVIDED IN COMMISSION RESOLUTION 8 (XXIII) AND ECONOMIC AND SOCIAL COUNCIL RESOLUTIONS 1235 (XLII) AND 1503 (XLVIII): REPORT OF THE WORKING GROUP ON SITUATIONS ESTABLISHED BY ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1990/41 OF 25 MAY 1990 (continued)

The meeting was called to order at 6.40 p.m.

HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS (agenda item 14) (continued) (E/CN.4/1995/L.73, L.97 and L.112)

Draft decision on the question of the follow-up to the guidelines for the regulation of computerized personal data files (E/CN.4/1995/L.73)

1. Mr. JUILLARD (France) said the purpose of the draft decision was to strengthen the interaction of States and international organizations with the Secretary-General in implementing the guidelines adopted by the General Assembly at its forty-second session and to ensure that they were applied throughout the United Nations system. The sponsors hoped the draft decision would be adopted by consensus.

2. The CHAIRMAN said he took it that the Commission wished to adopt the draft decision without a vote.

3. It was so decided.

Draft resolution on human rights and bioethics (E/CN.4/1995/L.97)

4. Mr. JUILLARD (France), introducing the draft resolution on behalf of the sponsors, said the rapid development of the life sciences and related technology in the past few years raised legitimate ethical questions, affecting as it did the very essence of the human person and consequently the most fundamental human rights. The development of the life sciences must be governed by a constant concern for respect for the human person and must benefit humanity as a whole. The text before the Commission was aimed at meeting those two concerns, which could be summed up in the idea of bioethics. A number of amendments to be incorporated in the text had been circulated in writing.

5. The sponsors hoped the draft resolution could be adopted by consensus.

6. Mr. MÖLLER (Secretary of the Commission) announced that the delegation of Greece had also become a sponsor of the draft resolution.

7. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution, as amended, without a vote.

8. It was so decided.

9. Mr. NAITO (Japan) said his delegation had voted against the draft resolution entitled "Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights" (E/CN.4/1995/L.47). It believed that the problem should be considered in more appropriate United Nations bodies, namely, those that dealt with environmental issues.

10. Mr. SIRAJ (Malaysia) said his delegation had abstained from the vote on the draft resolution mentioned by the delegation of Japan. Malaysia did not believe that the issue of the illicit movement and dumping of dangerous

products and toxic waste fell within the purview of the Commission. There was indeed a human rights dimension to the issue, but other forums were more competent to deal with the matter.

11. Nor was Malaysia convinced that the appointment of a special rapporteur would advance work on the question; on the contrary, it might shift the focus of the Commission's work from human rights matters and siphon off scarce resources that could better be used to fund other projects.

12. The CHAIRMAN announced that the Commission had completed its consideration of agenda item 14.

THE ROLE OF YOUTH IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS, INCLUDING THE QUESTION OF CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (agenda item 26) (continued) (E/CN.4/1995/L.82/Rev.1)

Draft resolution on conscientious objection to military service (E/CN.4/1995/L.82/Rev.1)

13. Mr. VAN REENAN (Netherlands) said that a revised version of the text had been issued for technical reasons - the wording of paragraph 11 had not made it sufficiently clear that a new title should be given to the agenda item. To a large extent the draft resolution incorporated the wording used in resolution 1993/84, with the addition of a few new elements, the first being the reference in the ninth preambular paragraph to General Comment No. 22 (48) of the Human Rights Committee on article 18 of the International Covenant on Civil and Political Rights.

14. In the penultimate preambular paragraph, humanitarian motives had been added to the list of those that formed the basis for conscientious objection.

15. In paragraph 2, the words "compulsory military service" that had been used in previous resolutions had been amended to read simply "military service". That was because, while it was recognized that persons who were performing their military service on a compulsory basis should not be excluded from the right to conscientious objection, it should also be recognized that persons who served in the military on a voluntary basis had the same right.

16. The new title for the agenda item, mentioned in paragraph 11, corresponded to the sponsors' belief that the resolution's focus had always been predominantly on conscientious objection rather than on the role of youth in the promotion and protection of human rights. The new title would better reflect that perception.

17. The sponsors hoped that the draft resolution would be adopted without a vote.

18. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Costa Rica, the Czech Republic, Sweden, the United Kingdom and the United States had also become sponsors of the draft resolution.

19. Mrs. GOSPODARCZYK (Poland) said her delegation held the view that article 18 of the International Covenant on Civil and Political Rights,

referred to in paragraph 1 of the draft resolution, did not prejudge the modalities relating to conscription and the performance of military service, both in time of peace and during armed conflicts.

20. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution, as amended, without a vote.

21. It was so decided.

22. The CHAIRMAN announced that the Commission had completed its consideration of agenda item 26.

DRAFTING OF A DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (agenda item 23) (continued) (E/CN.4/1995/L.98)

Draft resolution on the question of a draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms (E/CN.4/1995/L.98)

23. Ms. MOLLESTAD (Observer for Norway) said she was introducing the draft resolution on behalf of the sponsors, which included Canada, Germany, South Africa and the United States in addition to those listed in the text. In its Decision 1984/116, the Commission had established a Working Group that had been trying for 10 years to finalize a draft declaration. At its most recent session, important discussions had been held and some progress made. That was why the sponsors of the resolution held the firm conviction that the work must go on. As it appeared that the Working Group was close to a consensus, the draft resolution requested that the meeting time allotted to it should be one week, rather than two, prior to the Commission's fifty-second session.

24. The sponsors hoped the draft resolution would be adopted by consensus.

25. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Bulgaria, France, Italy, Liechtenstein, Mexico, Sweden and Venezuela had also become sponsors of the draft resolution.

26. The draft resolution was considered to fall within the scope of the mandates of the Economic and Social Council, for which resources were already provided under section 21 of the current biennium budget. No additional resources would, therefore, be required for the implementation of the draft resolution, if adopted.

27. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution without a vote.

28. It was so decided.

29. The CHAIRMAN announced that the Commission had completed its consideration of agenda item 23.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

(agenda item 11) (continued) (E/CN.4/1995/L.69 and L.70)

Draft resolution on the elimination of violence against women (E/CN.4/1995/L.69)

30. Mr. HYNES (Canada) said it was particularly appropriate to be introducing the draft resolution on the elimination of violence against women on 8 March 1995 - International Women's Day. The draft built on resolution 1994/45, which had been adopted with overwhelming support from countries and NGOs that had long been striving to advance the cause of women's rights. The draft resolution welcomed the report of the Special Rapporteur on violence against women and called for her to play an important role in the Fourth World Conference on Women, to be held in Beijing in 1995. The sponsors had benefited from the support of a great many delegations, and particularly that of China, to which they expressed their gratitude. As the host for the World Conference, China would play a crucial role in future United Nations efforts to eliminate violence against women and ensure respect for their rights. A number of minor amendments to the draft resolution had been circulated in writing and would be incorporated in the final text. In addition, he wished to point out that, in paragraph 6 (g), the words "practices in the name of" should be inserted before "religion".

31. Extensive consultations had taken place on all the proposed amendments, and he was confident that the draft resolution could be adopted by consensus.

32. Mr. MÖLLER (Secretary of the Commission) said that the delegations of Argentina, Belgium, Benin, Bolivia, Cameroon, Columbia, Cote d'Ivoire, Ecuador, Gabon, Gambia, Germany, Greece, Guatemala, Honduras, Iceland, India, Italy, Kenya, Luxembourg, Malawi, Nepal, New Zealand, Romania, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, the United Kingdom, the United States, Uruguay, Venezuela and Zimbabwe had also become sponsors of the draft resolution. No additional resources would be required for its implementation should the draft resolution be adopted.

33. Mr. ELKARIB (Sudan) thanked the Canadian delegation for accommodating the views of all delegations in an important draft resolution which laid the groundwork for other closely-related measures. His delegation would support the text, even though it had hoped it would reflect the reference in the Special Rapporteur's report to the need to tackle the epidemic of pornography.

34. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution, as amended, without a vote.

35. It was so decided.

Draft resolution on the question of integrating the human rights of women into the human rights mechanisms of the United Nations (E/CN.4/1995/L.70)

36. Mr. HYNES (Canada), drew attention to the various amendments to the draft resolution contained in the revised text that had been circulated informally. In addition, the preambular paragraph beginning "Reaffirming that discrimination on the basis of sex is contrary to the Charter of the United Nations" would now become the first preambular paragraph.

37. In view of the commendable spirit of cooperation and compromise which had resulted in the revised text, the sponsors hoped that it would be adopted by consensus.

38. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Benin, Bolivia, Cameroon, Colombia, Côte d'Ivoire, Honduras, Iceland, Italy, Luxembourg, Malawi, Romania, Slovakia, South Africa, Spain, United States of America, Uruguay, Venezuela and Zimbabwe had also become sponsors of the draft resolution.

39. In explanation of the budgetary implications of the draft resolution, as required under rule 28 of the Commission's rules of procedure, he said that the resources required to implement the request contained in paragraph 8 were US$ 116,900 for 1995. Although no specific provision had been made for the purpose in the proposed programme budget, it was expected that the costs would be absorbed into the existing overall approved provisions for the ECOSOC mandates and policy-making organs concerned.

40. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution, as amended, without a vote.

41. It was so decided.

Draft resolution on human rights and thematic procedures (E/CN.4/1995/L.75 and L.109)

42. Mr. SKODA (Czech Republic), introducing the draft resolution, said it had been based on the previous year's resolution 1994/53 and recognized the crucial importance to the Commission's work of thematic procedures. He drew attention to the amendment contained in the revised text that had been circulated informally and on which agreement had been reached after extensive consultations with the delegations concerned.

43. In addition to the amendments shown in that document, there were two further minor amendments not included in the revised text: in paragraph 7, the addition after "procedures" of the words "and to ascertain that the material provided falls under the mandates of these procedures and

contains the required elements"; and in paragraph 18 the deletion in line 2 of the word "periodic". With those amendments, he hoped that the draft resolution could be adopted by consensus.

44. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Australia, Greece, Iceland, Jordan, Latvia, Liechtenstein, New Zealand, Portugal, the Republic of Korea, the Russian Federation, Sweden and the United Kingdom had also become sponsors of the draft resolution. It had no budgetary implications.

45. Mr. MORA (Cuba) said that, since his delegation's reservations regarding the text appeared to have been covered by the revised text, it would not press the amendments it had proposed in document E/CN.4/1995/L.109, which he therefore withdrew. However, he did wish to raise two points that might be borne in mind by the Commission. First, consideration should be given to appropriate mechanisms for assessing the admissibility of communications under the thematic procedures. Secondly, consideration should to be given to ensuring equitable geographical distribution of persons working under the various thematic procedures.

46. Mr. VAN WULFFTEN PALTHE (Netherlands), referring to the proposed amendment to paragraph 7, suggested that a more appropriate wording would be "and asks these procedures to ascertain that the material provided for was under the mandates of these procedures and contains the required elements".

47. Mr. SKODA (Czech Republic), noting that there were no objections from the other sponsors, said that the wording proposed by the delegation of the Netherlands was acceptable.

48. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution, as amended, without a vote.

49. It was so decided.

Draft resolution on human rights and mass exoduses (E/CN.4/1995/L.84)

50. Mr. TOUCHETTE (Canada), introducing the draft resolution, drew attention to the revised text which had been circulated informally. Canada and the other sponsors hoped it would help to strengthen coordination and information-sharing among the various bodies of the United Nations human rights system and to improve their ability to respond effectively to crises. While containing some new elements, it was based on previous resolutions of the Commission and the General Assembly and on the very important report on human rights and mass exoduses (E/CN.4/1995/49). In view of the efforts and cooperative spirit of all the delegations involved in the drafting process, the delegation of Canada hoped that the draft resolution would be adopted by consensus.

51. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Argentina, Armenia, Australia, Denmark, Ireland, Italy, Jordan, Latvia, Luxembourg, Nepal, New Zealand, Romania, the Republic of Korea, Senegal, Sweden, Switzerland, Uruguay and the United States had also become sponsors of the draft resolution.

52. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution, as amended, without a vote.

53. It was so decided.

54. Mrs. AZHAR (Pakistan), said that her delegation had joined in the consensus on the draft resolution on human rights and terrorism (E/CN.4/1995/L.58). Pakistan was resolutely opposed to terrorism in all its forms and understood the need for close international cooperation to combat the problem. It condemned all terrorist acts, irrespective of where or by whom they were committed. It believed that the use of State power to brutalize peoples struggling under colonial and other forms of alien domination was the worst form of terrorism. That position was consonant with the relevant resolutions adopted by the General Assembly, and in particular resolution 46/51 of 9 December 1991. A similar position had been adopted by the non-aligned movement at its Jakarta Summit in September 1992.

55. Her delegation therefore welcomed the fact that, as Peru had emphasized, in its introduction to the resolution, it was without prejudice to the right of peoples under colonial or other forms of alien domination or foreign occupation to self-determination, in accordance with the Charter of the United Nations and as recognized by the relevant resolutions of the General Assembly.

56. Mr. NAITO (Japan), referring to the draft resolution on national institutions for the promotion and protection of human rights (E/CN.4/1995/L.68), said that in the view of his delegation, the third International Workshop on National Institutions for the Promotion and Protection of Human Rights should be financed through the regular budget of the United Nations rather than from the Voluntary Fund for the Technical Cooperation in the Field of Human rights.

57. Mr. PORTALES (Chile), referring to the draft resolution on human rights and terrorism (E/CN.4/1995/L.58), said that his delegation, while joining in the consensus on the overall tenor of the document, wished to emphasize the institutional character of human rights and questioned the appropriateness of placing the criminal activities of terrorist groups, however reprehensible, in the category of human rights violations; to do so might have serious consequences for the international system of human rights protection and result in a dilution of the overriding responsibility of States in that area.

58. With regard to the draft resolution on respect for the universal freedom of travel and the vital importance of family reunification (E/CN.4/1995/L.83), his delegation welcomed the emphasis on the protection of migrants, but regretted the absence of any reference to the right of individuals to leave any country, including their own, set forth in article 13 of the Universal Declaration of Human Rights and article 12 of the International Covenant on Civil and Political Rights.

59. Mr. VAN WULFFTEN PALTHE (Netherlands), recalling his delegation's decision not to sponsor the draft resolution on the protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) (E/CN.4/1995/L.59), said it was very concerned at

the imposition by certain countries of travel restrictions on persons infected with HIV and regretted that the opportunity to condemn that practice had been missed.

60. Mr. DESAGNEAUX (France), speaking on behalf of the European Union on the draft resolution on human rights and terrorism (E/CN.4/1995/L.58), recalled that the European Union had always unreservedly condemned all acts, methods and practices of terrorism and expressed its sympathy for States and individuals who became victims of terrorism. In addition, it had consistently declared its willingness to strengthen international cooperation in the fight against terrorism. Combating terrorism was a priority for the countries of the European Union, which supported all efforts in that area which were in accordance with international law, human rights standards and the rule of law.

61. However, although terrorism adversely affected the enjoyment of human rights, it was questionable whether the Commission was the appropriate forum in which to tackle the issue. Furthermore, while it was only natural that the competent human rights bodies should consider the overall context when reviewing the human rights situation in a country, the existence of terrorism could never in itself justify human rights violations by States. It was those violations which would of necessity remain the main concern of the human rights bodies.

62. Consequently, while recognizing that victims of terrorism deserved the assistance of States, the European Union had strong reservations about certain aspects of the draft resolution, such as its support for the establishment in the human rights context of a United Nations voluntary fund for victims of terrorism. Indeed, a clear distinction had to be made between acts attributable to States and those which were not. Strictly speaking, only the former should be regarded as human rights violations, and the European Union could therefore not support the statement made in the seventh preambular paragraph and regretted that, on that crucial point, the draft resolution had departed from the wording agreed on in the Vienna Declaration and Programme of Action. The fact that the resolution referred to human rights violations perpetrated by terrorist groups did not confer any particular status on terrorists under international law.

63. Mr. VAUGHN-FENN (United Kingdom) said that his delegation had joined in the consensus on the draft resolution on regional arrangements for the promotion and protection of human rights in the Asian and Pacific region (E/CN.4/1995/L.65), which took forward some important work which the United Kingdom wished to continue. For that reason, the United Kingdom would have preferred paragraph 7 to have properly reflected the fact that the Advisory Service Programme was funded both by the regular budget and from voluntary contributions.

64. In thanking the delegations of the Philippines and the Republic of Korea for considering his delegation's proposals, he said that the United Kingdom looked forward in future to collaborating with the sponsors at an earlier stage of the drafting process.

65. The CHAIRMAN said that the Commission had completed its consideration of agenda item 11.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(agenda item 12) (continued) (E/CN.4/1995/L.86, L.88/Rev.1, L.89-91, L.93, L.94/Rev.1, L.95 and L.96, L.99-102, L.104, L.107, L.108 and L.111)

Draft resolution on the situation of human rights in the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) (E/CN.4/1995/L.88/Rev.1)

66. Mr. WAGENSEIL (United States of America), introducing the draft resolution on behalf of the sponsors, including Bosnia and Herzegovina and Albania, said that the text was the fruit of close cooperation between many delegations. Tribute should be paid to the Special Rapporteur, Mr. Mazowiecki, for his work and reports on the situation of human rights in the territory of the former Yugoslavia. His mandate was to be renewed for another year.

67. As the Special Rapporteur had reported, serious violations of human rights continued in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro). The Commission should call on those responsible to put an end to such abuses immediately.

68. He reviewed the substance of the draft resolution, which stressed the importance of the territorial integrity, within internationally recognized borders, of all the States in the territory of the former Yugoslavia. The States which had been referred to in the draft resolution should cooperate with the Special Rapporteur and make use of other procedures set up by the Commission to end human rights violations in the region.

69. There was an error in the eighth preambular paragraph which should read, "Reiterating the commitments of the international community to the territorial integrity, sovereignty and political independence of all States on the territory of the former Yugoslavia;". There was also an error in paragraph 42 of the French text which referred to "l'ex-République fédérative de Yougoslavie (Serbie et Monténégro)". The Federal Republic of Yugoslavia (Serbia and Montenegro) was not a former republic.

70. Although certain delegations had problems with the wording of some paragraphs because they contained language that was either too strong or not strong enough, it was to be hoped that the draft resolution would be adopted by consensus.

71. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Australia, Austria, Bahrain, Bulgaria, Chile, the Czech Republic, Gambia, Germany, Indonesia, Jordan, Kuwait, Malaysia, the Netherlands, Oman, Pakistan, Qatar, Senegal, Slovakia, Slovenia and Tunisia had also become sponsors of the draft resolution.

72. Mr. CANKOREL (Observer for Turkey) said that, despite the best efforts of the international community, it had failed effectively to address the tragedy in the former Yugoslavia and protect the victims of unjustified aggression, ethnic cleansing and the virtual extermination of the Muslim Bosnian population within the internationally-recognized borders of the Republic of Bosnia and Herzegovina.

73. The victims of the campaign of genocide had been denied their inherent right of self-defence because of an arms embargo. The leadership in the territory under Serb control and the political and military leaders in the Federal Republic of Yugoslavia (Serbia and Montenegro) were to be categorically condemned for the almost unprecedented gravity of the violations of the principles of humanitarian law and human rights. Of equal concern was the plight of the ethnic populations of Sandjak and Vojvodina and those in Kosovo.

74. He explained that the draft before the Commission constituted a consensus text since it merged the wording of the draft resolution initially submitted by the United States (E/CN.4/1995/L.88) with that submitted by his own delegation (E/CN.4/1995/L.87), and expressed his thanks to the delegations which, in a spirit of compromise, had accepted the wording of the new draft. Unfortunately, it fell far short of representing the gravity of the situation and the urgency and determination of the measures that the situation demanded.

75. Mr. BIJEDIC (Observer for Bosnia and Herzegovina) said that the draft resolution before the Commission was the first one to be sponsored by the delegation of Bosnia and Herzegovina. The concerns that had been expressed in draft resolution E/CN.4/1995/L.87 on the situation of human rights in the Republic of Bosnia and Herzegovina had been successfully incorporated into the text of draft resolution E/CN.4/1995/L.88/Rev.1. The authors had wished to define the main causes of the massive violations of human rights in the Republic of Bosnia and Herzegovina, namely, aggression on the part of Serbia, Montenegro, the Yugoslav army and the Bosnian Serbs. They had also emphasized the grave consequences of the denial of the right of self-defence to a Member State of the United Nations, endorsed the peace plan of the Contact Group, and supported the Federation of Bosniacs and Croats as a first step towards peace, as well as the work of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991. Draft resolution E/CN.4/1995/L.88/Rev.1 repeated those concerns and considerations. Some of the references to genocide, self-defence and the peaceful resolution of the conflict were not completely satisfactory, but his delegation had agreed to them for the sake of consensus.

76. The clear and relatively balanced approach to the resolution of problems adopted in the draft resolution should help the Commission in its efforts to protect human rights and fundamental freedoms, assist the Special Rapporteurs in their work and help the Security Council to move the peace process in the direction of an urgently needed solution respecting universal principles.

77. Mr. MADEY (Observer for Croatia) said that his delegation had cooperated fully in the preparation of draft resolution E/CN.4/1995/L.88/Rev.1. The Government of Croatia was committed to the implementation of international humanitarian instruments despite the occupation of a significant part of Croatian territory, working closely with the Special Rapporteur, and its ministries were carefully evaluating and making inquiries into all allegations of human rights violations.

78. The Commission, at its fifty-second session, should, however, reconsider the mandate of the Special Rapporteur in relation to the Republic of Croatia, particularly if the peaceful reintegration of the occupied parts into the Croatian legal and political system was achieved.

79. Although Croatia supported the draft resolution, its position on some of its elements differed from that of other sponsors, two examples being the role of the United Nations Protection Force (UNPROFOR) and the characterization of some alleged extreme nationalistic propaganda in the media. Similarly, some elements of particular interest to Croatia had been omitted.

80. Mr. RAMISHVILI (Russian Federation) said that Russia had participated actively in the consultations on the draft resolution. Unfortunately, however, none of its amendments and proposals had been accepted, and although it could support parts of the draft resolution it disagreed with several paragraphs. He therefore requested three separate votes. First of all, a roll-call vote on whether to retain the thirteenth preambular paragraph which dealt with a matter which fell exclusively within the mandate of the Security Council and therefore not within that of the Commission on Human Rights and which should, therefore, be deleted. A second vote, by a show of hands, would be on the eleventh, twelfth and thirtieth preambular paragraphs and paragraphs 3 and 10. A vote would then be taken by roll-call on the draft resolution as a whole.

81. Mr. MÖLLER (Secretary of the Commission) said that the draft resolution was considered to fall within the mandates of the Economic and Social Council, for which resources were already provided under section 21 of the current biennium budget. No additional resources would, therefore, be required for its implementation, if adopted.

82. Mr. MORA (Cuba) said that Article 24 of the Charter of the United Nations clearly defined the functions and aims of the Security Council, namely, to help maintain international peace and security. Its mandate did not, therefore, cover social, humanitarian and human rights questions. The text of the draft resolution tried to link the actions of the Security Council with human rights, in violation of the Charter of the United Nations, thus establishing an unfortunate precedent. The late submission of the draft resolution and the difficulties in negotiating the text seriously also contributed to Cuba's decision not to take part in the vote on it.

83. At the request of the representative of the Russian Federation, a vote was taken by roll-call on whether to retain the thirteenth preambular paragraph.

84. Chile, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Australia, Austria, Bangladesh, Benin, Bulgaria, Chile, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Germany, Hungary, Indonesia, Japan, Malaysia, Mauritania, Mauritius, Netherlands, Nicaragua, Pakistan, Peru, Philippines, Poland, Republic of Korea, Sri Lanka, Sudan, the United States of America.

Against: India, Russian Federation.

Abstaining: Angola, Bhutan, Brazil, Cameroon, Canada, China, Colombia, Côte d'Ivoire, Finland, France, Gabon, Italy, Malawi, Mexico, Nepal, Romania, Togo, United Kingdom of Great Britain and Northern Ireland, Venezuela, Zimbabwe.

85. The thirteenth preambular paragraph was retained by 29 votes to 2, with 20 abstentions.

86. The CHAIRMAN called for a vote by show of hands on the eleventh, twelfth and thirtieth preambular paragraphs and on paragraphs 3 and 10.

87. The eleventh, twelfth and thirtieth preambular paragraphs and paragraphs 3 and 10 were adopted by 35 votes to 2, with 14 abstentions.

88. At the request of the representative of the Russian Federation, a vote was taken by roll-call on the draft resolution as a whole.

89. Germany, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Australia, Austria, Bangladesh, Benin, Bhutan, Brazil, Bulgaria, Cameroon, Canada, Chile, Colombia, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Germany, Hungary, Indonesia, Italy, Japan, Malawi, Malaysia, Mauritania, Mauritius, Mexico, Nepal, Netherlands, Nicaragua, Pakistan, Peru, Philippines, Poland, Republic of Korea, Romania, Sri Lanka, Sudan, Togo, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Venezuela.

Against: None.

Abstaining: Angola, China, Côte d'Ivoire, Gabon, India, Russian Federation Zimbawe.

90. Draft resolution E/CN.4/1995/L.88/Rev.1 as a whole was adopted by 44 votes to none, with 7 abstentions.

Draft resolution on the situation of human rights in Burundi
(E/CN.4/1995/L.94/Rev.1)

91. Mr. MEGHLAOUI (Algeria), introducing the draft resolution on behalf of the African Group and the European Union, said urgent action was needed to prevent a tragedy in Burundi. The draft resolution condemned any incitement to ethnic violence in the media, and encouraged the Government of Burundi to secure participation by all components of the population in the conduct of the country's affairs. It appealed for moderation and reconciliation, and commended the efforts made by the Organization of African Unity (OAU) and the High Commissioner for Human Rights, in cooperation with the Government, to promote and protect human rights. It stressed the need to increase preventive action, and invited the international community to continue to lend its support to end the violence. Finally, it called for the strengthening of the Secretary-General's Office in Bujumbura, and requested the Commission to appoint a special rapporteur.

92. He pointed out that operative paragraph 6 of the draft resolution should be amended to read: "Supports the creation as soon as possible of an international commission of inquiry into the October 1993 coup attempt and the massacres that followed, as proposed by the Government of Burundi in accordance with the Convention of Government;".

93. He hoped the draft resolution would be adopted by consensus.

94. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Angola, Australia, Austria, Belgium, Denmark, Ethiopia, Finland, France, Gambia, Greece, Hungary, Iceland, Japan, Malawi, Mauritania, Nigeria, Switzerland, the United States of America and Zimbabwe had also become sponsors of the draft resolution.

95. He added that, under rule 28 of the Commission's rules of procedure, the resources required to implement the requests contained in paragraphs 12, 13, 14 and 15 of the draft resolution were estimated at US$ 3,268,300 for 1995 and US$ 589,100 for 1996. Additional staff requirements would have to be considered in the context of the overall staffing situation at the Centre, and were therefore not included in the preliminary estimate. A statement on budgetary implications would be submitted to the Economic and Social Council at its next session, in the context of the Council's review of the report on the Commission's current session.

96. Mr. HAREL (France) said that the draft resolution had been inspired by a sense of urgency, and by the conviction that the Commission had an important preventive role in averting a tragedy in Burundi. He was delighted that Africa and Europe had together decided to make clear the Commission's commitment to tolerance, moderation, and full respect for human rights in Burundi.

97. The CHAIRMAN said he took it the Commission wished to adopt the draft resolution without a vote.

98. It was so decided.

Draft resolution on the situation of human rights in Rwanda
(E/CN.4/1995/L.107)

99. Mr. TOUCHETTE (Canada) thanked all the delegations concerned, and particularly the delegation of Cuba, for contributing to the consensus that had been achieved on the draft resolution.

100. He pointed out that, in paragraph 5, the word "concerned" should be added after the word "States"; in paragraph 11, the word "commending" should be replaced by "commends"; in paragraph 17, the words "pursuant to its request" should be added after the words "Government of Rwanda"; in paragraph 18, the words "upon request" should be added after "technical assistance"; and the words "as requested by the Government of Rwanda" should be added to the end of paragraph 21.

101. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Angola, Australia, Austria, Belgium, Brazil, Bulgaria, Cameroon, Chile, Colombia, Czech Republic, Denmark, El Salvador, Finland, France, Gambia, Germany, Greece, Hungary, Ireland, Israel, Italy, Kenya, Liechtenstein, Luxembourg, Malawi, Netherlands, New Zealand, Nigeria, Norway, Portugal, Romania, Senegal, Slovakia, Spain, Sweden, Switzerland, the United Kingdom and the United States of America had also become sponsors of the draft resolution.

102. The resources required to implement the requests contained in the draft resolution were estimated at US$ 556,000 for 1995 and US$ 102,000 for 1996. As in the case of the previous resolution, additional staff requirements would have to be considered in the context of the Centre's overall staffing situation, and were therefore not included in the preliminary estimates. A further statement on budgetary implications would be submitted to the Economic and Social Council at its next session.

103. Mr. MORA (Cuba) thanked the delegation of Canada and the authors of the draft resolution for having taken into account certain proposals made by his delegation in the course of the consultations. However, the draft resolution still contained a number of paragraphs which had a direct connection with the activities of the Security Council. His delegation would therefore be unable to participate in a vote on the draft resolution, for the same reasons it had been unable to do so in the case of draft resolution E/CN.4/1995/L.88/Rev.1.

104. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution, as amended, without a vote.

105. It was so decided.

106. Mr. BEBARS (Egypt) said Egypt believed that human rights and fundamental freedoms should be respected throughout the world, and therefore strongly condemned any lack of respect for human rights wherever it occurred. There was a tendency in the Commission to act on the basis of principles that were not acceptable to everyone, and some members had even raised matters that were far from being within the Commission's competence.

107. The request made to the Secretary-General in paragraph 12 of the draft resolution on the situation of human rights in Iraq (E/CN.4/1995/L.89) to send a team of human rights monitors to Iraq required that the views of the country concerned should first be taken into account. In the light of those considerations, Egypt had been obliged to abstain from the vote on the draft resolution.

108. Ms. PALALA (Philippines) said her Government believed that human rights could best be promoted and protected in specific country situations on the basis of the principle of constructive engagement. No country, large or small, could presume to sit in judgement on another, and it was better to increase awareness and engage in dialogue than to condemn.

109. The Philippines fully supported resolutions designed to set standards and to consider ways and means of promoting and protecting human rights. However, it believed that the Commission had effective means at its disposal to deal with specific country situations without resorting to condemnatory resolutions. It had therefore consistently abstained from the vote on a number of resolutions dealing with such situations, notably that relating to the Islamic Republic of Iran. Only when all else failed should a sovereign State be denounced.

110. Mr. EICHER (United States of America) said his delegation had joined in the consensus on the draft resolution on human rights violations on the Papua New Guinea island of Bougainville (E/CN.4/1995/L.48), despite several reservations about its balance. It believed that, to conform with standard practice, the title of the resolution should have referred to "situation" rather than to "violations".

111. His delegation commended the Government of Papua New Guinea for implementing a cease-fire with the insurgent forces, for organizing the October 1994 peace conference on the island, and for committing itself to form a Bougainville transitional Government. It condemned the recent attack on a commercial aircraft on the island, resulting in the death of one passenger, for which the Bougainville Revolutionary Army had claimed responsibility.

112. The United States called on all parties to the conflict to continue to observe the cease-fire concluded between the Government of Papua New Guinea and insurgent groups in 1994, and to refrain from acts that would cause civilian death or injury.

113. Mr. SIA BI SEI (Côte d'Ivoire), explaining his delegation's vote on the draft resolution on human rights in China (E/CN.4/1995/L.86), said his Government had consistently endeavoured to promote respect for human rights not only in its own territory but throughout the world. However, it did not believe in condemning States, particularly those which had given the international community ample evidence of their good faith. In such matters, dialogue and consultation, taking into account each country's social and economic circumstances, were preferable.

114. In voting against the draft resolution, his delegation was not absolving China but rather inviting the Chinese Government to persevere in its efforts, and to reinforce measures it had already taken to ensure better protection of human rights.

115. Mr. GOMEZ ROBLEDO (Mexico), referring to the draft resolution on the situation of human rights in Rwanda (E/CN.4/1995/L.107), said his delegation was concerned at the humanitarian tragedy in the country, and had accordingly joined in the consensus. However, it believed that the Commission should contribute to a solution of the problem by using its own mechanisms and procedures. The Security Council had already taken steps in regard to the political and security aspects of the situation, and any measures taken by the Commission should be confined to its own area of competence in order to avoid confusion and duplication of efforts.

116. Mr. GOONETILLEKE (Sri Lanka) said that his delegation's position on the series of resolutions concerning country situations adopted by the Commission had been governed by a number of considerations. Sri Lanka believed that human rights issues in individual countries should be approached in a spirit of non-confrontation and consensus. Such issues should not be used as an instrument for attacking the particularities of individual countries, notably their constitutional and legal systems, and when establishing country specific mechanisms the countries concerned should be consulted by all available means. The Commission's approach should be credible and consistent, and it should not adopt different standards for different countries. Care should be taken in dealing with human rights situations which were not the result of a deliberate government policy, and the views of the regional group to which the country belongs should be taken into account. International cooperation should be the guiding principle of the Commission's work.

117. His delegation had voted against the resolution on the human rights situation in the United States of America (E/CN.4/1995/L.26/Rev.1) because it believed that the Government had shown a positive attitude by inviting the Special Rapporteur to visit the country to investigate the situation. Such an attitude should be appreciated and encouraged. His delegation had also voted against the resolution on the human rights situation in Nigeria (E/CN.4/1995/L.100) because it believed that the sponsors of the resolution had not taken sufficient account of the views of other countries in the region.

118. With regard to the draft resolution concerning the Sudan (E/CN.4/1995/L.93), his delegation had often stressed the importance of consultation and cooperation between special rapporteurs and individual countries, and had urged that condemnation of specific legal systems should be avoided. In the light of the Sudan's own position on the matter, he did not consider it appropriate for the country rapporteur to approach the Secretary-General regarding the stationing of monitors in the Sudan, particularly since no mention was made of any consultation with the Sudan on the matter.

119. His delegation had been unable to vote in favour of a number of other resolutions because, in its view, they had been unduly influenced by extraneous considerations. Sri Lanka would have to review its position regarding those resolutions at the Commission's next session.

120. Mr. DEDANS (Mauritius) said, with reference to the draft resolution on the situation of human rights in Nigeria (E/CN.4/1995/L.100), that in recent years the cause of human rights had achieved significant successes in Africa. His delegation was therefore greatly concerned that the image of that continent might be tarnished by negative developments, at a time when the momentum in favour of respect for human rights should be accelerated.

121. Nevertheless, in a spirit of solidarity, his delegation had responded to the appeal made by the representative of Algeria, as Chairman of the African Group, and had voted against the draft resolution.

122. Ms. MALUWA (Malawi) said her delegation had also voted against that draft resolution because it believed that the constructive discussions already taking place between the Nigerian Government and opposition parties should be encouraged. The view of her Government was that condemnation could sometimes destroy prospects of a peaceful solution to a dispute. Nigeria should be given a further chance to deal with the matter internally.

123. Mr. HAREL (France), referring to the draft resolution on the situation of human rights in China (E/CN.4/1995/L.86), said that, despite the result of the vote, his delegation was pleased that it had been possible to table the resolution at the Commission's current session. The human rights violations taking place in China were of legitimate concern to the international community, and the fact that the resolution had been submitted would be bound to strengthen the credibility of the Commission and encourage all those who were endeavouring to tackle human rights problems objectively in countries throughout the world.

124. Mr. NAITO (Japan) said his delegation welcomed the adoption without a vote of the draft resolution on the situation of human rights in Myanmar (E/CN.4/1995/L.101). The resolution not only gave expression to the international community's concern about the situation, but also clearly defined the objectives to be achieved in terms of both human rights and democratization.

125. Although his delegation had not become a sponsor of the resolution, it endorsed it and was prepared to assist in achieving its goals. He hoped that the Government of Myanmar would take further measures to improve the human rights situation and expedite the democratization process, and urged it to cooperate fully with the United Nations by responding to the requests made in the resolution.